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8 ("said sheet") that Applicant believes is not in claim 8, but is included in claim 9, and therefore has not amended claim 8, but instead has amended claim 9. Additionally, the Examiner suggested that the antecedent defect in claim 14 be corrected in one of claims 33 or 34, but instead Applicant has provided this antecedent in claim 14 and canceled claim 15, as this limitation is now in claim 14, from which 15 depends. Applicant has added no new matter with these amendments, as the content is within the specification as filed, including the claims as filed. These amendments are intended to place these claims in condition for allowance.

103 Rejections

Claims 2-12 and 33-36 stand rejected under 35 USC 103(a) as being unpatentable over the Venus-Gusmer article in view of one or more secondary references.

Applicant respectfully submits that he is unaware that the Venus-Gusmer article was ever published, and is unaware of the publication date if it was published. While the Examiner has made an effort to deduce when it potentially could have been published, Applicant respectfully submits this does not fulfill the requirement, as stated in MPEP 2128, requiring:

"a satisfactory showing that such document has been disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art, exercising reasonable diligence, can locate it." In re Wyer, 655 F.2d 221, 210 USPQ 790 (CCPA 1981) (quoting I.C.E. Corp. v. Armco Steel Corp., 250 F. Supp. 738, 743, 148 USPQ 537, 540 (SDNY 1966))"

In fact, Applicant has searched for evidence that this article was published to establish a publication date, and has been unable to locate a published copy, nor was the examiner, despite efforts to do so, and therefore Applicants believe this burden has not been met to establish publication.

The Examiner also indicates that the article is evidence "...others practiced the disclosure therein..." In fact, the article notes that the line in the article is in China, so the assertion that others were practicing this appears to be inaccurate with respect to 102(a), which requires use "in this country" (although this is not asserted in the rejection, it is implied). Prior knowledge or use which is not present in the United States, even if widespread in a foreign country, cannot be the basis of a rejection under 35 U.S.C. 102(a). In re Ekenstam, 256 F.2d 321, 118 USPQ 349 (CCPA 1958). Applicant respectfully submits that there is no evidence that this technology was used by others in this country, or that the

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article was made available to the extent that one exercising reasonable diligence could locate a copy. Accordingly, Venus-Gusmer may not properly be applied as a reference, and requests this rejection be withdrawn.

Applicants do not admit the Venus-Gusmer comprises a reference, but assuming arguendo that Venus-Gusmer were discovered to be published, the rejection fails to establish a prima facie showing of anticipation, as not all claimed elements are shown or suggested in the purported references. As set forth in MPEP 2143.04:

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Specifically, Applicant claims "a continuous mold surface". The Examiner states that Venus-Gusmer shows this with its plurality of molds. Applicants assert that the plurality of molds teaches away from the continuous mold, as this is what Applicant notes as the prior art; i.e. a plurality of discrete molds, each of which is used to make a panel, while Applicant uses a continuous mold in the instant application. Accordingly, Applicants submit that a prima facie rejection has not been made, and the rejection should be withdrawn. As such, the dependent claims are likewise allowable.

Conclusion


In view of the above amendments and remarks, Applicant submits that the rejections have been overcome and the claims are in condition for allowance. Applicant requests entry of the above amendment and consideration of the remaining claims.

If any questions should arise with respect to the above Remarks, or if the Examiner has any comments or suggestions to place the claims in better condition for allowance, it is requested that the Examiner contact Applicant's attorney at the number listed below.

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If any fees are required pertaining to this response, Applicant request that they be charged to Deposit Account No. 50-0568.

Respectfully submitted,


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